

EXHIBIT 4B

Witness: Charles Seward

17 (Pages 62 to 65)

Page 62	Page 64
<p>1 A That's correct. They should be up and 2 running. 3 Q Have you ever been told that you don't 4 necessarily need to log into every tool until -- you 5 may not need the tool that day? 6 A Correct. I -- let me back up. I would use 7 -- I would log onto everything that I would normally 8 use first. You're correct. 9 MR. RAY: The tape is about out. Let's take 10 a break, and then we'll let the tape get changed. 11 THE VIDEOGRAPHER: Off video. 12 (Thereupon, a recess was taken.) 13 THE VIDEOGRAPHER: On video. 14 BY MR. RAY: 15 Q Mr. Seward, before the break we were 16 talking about the tools that you currently use. 17 A Yes. 18 Q And you went through, I believe, 16 or 17, 19 and I think you said you are not positive that's all 20 of them. There may be a couple more. I'm not 21 trying -- 22 A Yes. 23 Q -- to hold you to memorizing every tool. 24 You also said, I think, that you -- in the -- before 25 you start the day, you log into the tools you normally</p>	<p>1 A Let's see. The first one? Yes. 2 Q For example, does it bring up a Lotus Notes 3 icon? 4 A Yes. It shows the icon for Lotus. 5 Q And let's talk first about the -- the tools 6 you normally use. The ones that you would log into 7 regularly at the start of your shift. 8 A Yes. 9 Q I assume that would include Lotus Notes? 10 A Correct. 11 Q Which other ones? And if you would like, I 12 could read through the ones you named. 13 A Okay. I would -- I would -- I would 14 definitely need Lotus Notes, SBClient, Call Center. 15 Let's see. IEE, that's the one I forgot. Well, 16 actually IEE is the Call Center. I'm sorry. So it's 17 Call Center, SBClient, Lotus Notes, Contracts On Line. 18 Software -- let me back up. The terminology is 19 BrioQuery. Let me see. Fastpass, PMINQ, CMCICS. 20 Let's see. SBClient. Could you read it back, the 21 ones I gave you, or the ones I definitely need? 22 Q The ones you definitely -- 23 A The ones I just read? 24 Q The ones you normally -- Lotus Notes, 25 SBClient, Call Center, Contracts On Line, BrioQuery,</p>
Page 63	Page 65
<p>1 use. I think that was the phrase you used. 2 A Yes. Yes. There's -- there's a -- there 3 are tools that -- that I know I'm going to use. I 4 make sure those guys are up before the other ones are 5 -- I might have, say, a half dozen that I do not -- 6 they might time out, if you will, if you do not use 7 them. They'll log themselves off. 8 So they're there. They're up. They're 9 up, but they're not logged on with a password, but I 10 can log onto them if something happens with a customer 11 that I need additional information that that tool 12 might have for me, but those are the guys -- those 13 tools are -- are the tools that I don't use as often. 14 Q Okay. Let's talk about the tool -- well, 15 let me back up. When you come -- when you first are 16 starting to boot up the computer, I assume you have to 17 turn it on each day? 18 A Yes. 19 Q And then what is the first thing you have 20 to actually type a password or take some action to log 21 into? 22 A Yes. I have to log onto my workstation. 23 Q And once you log into your workstation, 24 does that then bring up various icons that you can 25 then log into?</p>	<p>1 Fastpass, PMINQ, CMCICS. 2 A I forgot something that I need. That'll 3 get me rolling. 4 Q Do you -- so on a regular day you would -- 5 or on a normal day you would -- when you are getting 6 ready to work, you would log into these tools you just 7 described? 8 A Right. I need those guys to get going. 9 Q Does every one of these tools you just 10 listed require a password? 11 A Yes. 12 Q Do you do them in the same -- or do you log 13 into those tools in the same order each day? 14 A No. 15 Q So you come in -- I'm just going to walk 16 through each tool. I want to try to get an 17 understanding of how long this takes. 18 A Yes. 19 Q Okay? You turn on your computer, right? 20 A Yes. 21 Q And then how long does it take the computer 22 to boot up to the point where you can log into the 23 workstation? And I'm sure there's a range here. I'm 24 not trying to -- 25 A A half a minute or so. What happens at</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

18 (Pages 66 to 69)

Page 66	Page 68
<p>1 that time, there comes a -- a screen comes up where I 2 have to put in the identification for that 3 workstation, and then -- then it -- the system starts 4 generating, starts coming up at that point, and that 5 may be -- I don't know how much time. Then it's going 6 to come up with my workstation log-in. That's where I 7 put my security to log into the workstation. At that 8 point is when the system starts coming up and bringing 9 all the icons up.</p> <p>10 Q Okay. So did I hear you correctly that you 11 have to put in a security code just to get the system 12 running to get to the workstation?</p> <p>13 A Yes, sir.</p> <p>14 Q So you turn on the computer?</p> <p>15 A Yes.</p> <p>16 Q And at some point you have to enter a code 17 just to get it to boot up to get to the workstation?</p> <p>18 A That's correct.</p> <p>19 Q Let me try it this way. How long between 20 turning the computer on to the time that the password 21 to boot up the workstation pops up? The second 22 password you have to --</p> <p>23 A Maybe two minutes at the most. Maybe two 24 and a half minutes.</p> <p>25 Q So you then enter that password with what</p>	<p>1 duplications of icons for the -- like the PMINQ, the 2 different other applications, so what I have to do is 3 wait until all those populate. Then I get rid of the 4 ones that are the extras that I do not need.</p> <p>5 And then at that point I'll bring in --</p> <p>6 I'll -- here comes another application. I'll bring up 7 a -- the Avaya -- what do they call it? It's a -- 8 it's a icon where it monitors the phone where I can go 9 in and out of the phone. I'll bring that up first.</p> <p>10 I'll click --</p> <p>11 Q Is that to go into AUX codes?</p> <p>12 A It actually can transfer calls like if a 13 customer is on my phone, I can actually hit a button, 14 and it'll transfer calls for me automatically.</p> <p>15 Q So you go into that?</p> <p>16 A Right. I bring that up first before I do 17 anything. That's automatic. It's on a start-up menu, 18 so it's no -- no -- there's no password for that.</p> <p>19 Okay. Then the next -- I know I bring those two up. 20 I bring two applications up first. I click on -- 21 Lotus Notes is next.</p> <p>22 Q Let me try to work backwards. What is the 23 average time to get all of these tools that you use on 24 a normal basis up? That you log into on a normal 25 day --</p>
Page 67	Page 69
<p>1 I'll call the workstation password?</p> <p>2 A Yes.</p> <p>3 Q And how long before the icons then appear?</p> <p>4 A It varies, but between two and three 5 minutes. When everything is fast, there's no updating 6 going on, between two and three minutes.</p> <p>7 Q Is it sometimes shorter than that?</p> <p>8 A No.</p> <p>9 Q Is it sometimes longer than that?</p> <p>10 A Yes. It -- you can tell when it might have 11 did something or updates are going in there, you know, 12 but it'll -- it'll come up there, and it'll actually 13 tell you that it's doing something.</p> <p>14 Q Is -- is -- are you saying that it's 15 average two to three minutes --</p> <p>16 A Yes.</p> <p>17 Q -- but it can obviously vary?</p> <p>18 A Yes.</p> <p>19 Q Then the icons come up?</p> <p>20 A They start coming up, yes.</p> <p>21 Q Then let's use Lotus Notes. You click on 22 the icon for Lotus Notes?</p> <p>23 A It takes -- it takes -- let me back up. It 24 takes awhile. The Number 1 thing here is that the 25 icons start coming up, but there's also some</p>	<p>1 A That I need.</p> <p>2 Q -- to start your day? And not every tool 3 that you went through, but the ones that we're talking 4 about now?</p> <p>5 A From now, from this point on, or for the 6 whole process of bringing up the workstation and 7 everything like that?</p> <p>8 Q From the time you turn on the workstation 9 until the time you're ready to go on a normal day? 10 They're all booted up?</p> <p>11 A I've been -- I've been actually looking at 12 this a lot in the last six months or so, and the best 13 scenario? Eight minutes, seven to eight minutes. The 14 worst scenario, 12 minutes or so, depending on if 15 there's something going on with the systems or the 16 applications. It could be longer. But the best 17 scenario right now, the way that the system is 18 designed and how I bring it up, what I need and 19 everything, eight minutes; seven, eight minutes. And 20 I purposely looked at this on my own. That's why -- I 21 just looked at it, say, you know, let me just look at 22 this, so that's what I've been doing.</p> <p>23 Now, if there's -- if -- the worst 24 scenario, if the system is not coming up or 25 applications are not coming up that I need to work, it</p>

Witness: Charles Seward

19 (Pages 70 to 73)

Page 70	Page 72
<p>1 could be longer. So if something that I need to 2 actually help a customer with, there's no way I can 3 get around it -- give you an example. If my Lotus 4 Notes doesn't come up, I can't work. 5 Q How often does that happen? 6 A I would say something happens at least once 7 or twice a week where it might go, you know, in that 8 12 minute or more range, but that's it. 9 Q Well, if -- for example, if Lotus Notes 10 does not come up, do you seek technical assistance? 11 A I usually either have to reboot the system, 12 start from beginning, because sometimes it might be 13 some type of error where it won't let me log into 14 Lotus Notes at all. I need that Lotus Notes up 15 because there's really some more applications within 16 that Lotus Notes that we need to do our job. 17 Q Is the -- the range you just described -- 18 A Yes. 19 Q -- you've been looking at over the last six 20 months? 21 A Yes, sir. 22 Q And it's seven to eight minutes best case; 23 up to 12 minutes if there's a problem or an 24 application loading or something like that; is that 25 right?</p>	<p>1 A Actually, I don't know exactly what tools 2 they use. I -- I believe they do use some tools to 3 verify entitlement for their hardware, but I do not 4 know what tools they actually use. I do not know 5 that, but I know they verify entitlement. 6 Q Do you know if they log out of their 7 computer each night? 8 A I -- I can't answer that, but I would think 9 so. 10 Q Do you have any knowledge -- personal 11 knowledge one way or another? Have you talked to 12 anyone about whether they logged out? Log out each 13 night? 14 A No. I never have. That's -- no. 15 Q Okay. We talked about sequencing, and I 16 think we've covered whether you log into the computer 17 first, log into the Avaya system, kind of the clock-in 18 mechanism -- 19 A Yes. 20 Q -- and the change to that. I'm going to go 21 through those e-mails here in a minute that we've been 22 talking about, Exhibit 2 and Exhibit 3. What I want 23 to ask now, I want to make sure I understand on the 24 expectation side. 25 A Yes.</p>
Page 71	Page 73
<p>1 A Correct. 2 Q And is that time period you just described, 3 what it takes to turn on the computer, get into your 4 workstation, and log into Lotus Notes, CBClient, Call 5 Center, Contracts On Line, BrioQuery, Fastpass, PMINQ, 6 CMCICS? 7 A It might be a little longer for all those 8 -- I'm talking about getting the system up in, you 9 know, seven -- eight minutes at the most. Eight 10 minutes. I mean, if you -- because after a while I've 11 been doing it for so long, it's automatic. So I'm 12 saying the best scenario, pop -- you know, getting the 13 system everything, eight minutes. The worst scenario, 14 could be longer. 15 Q And you are -- on a normal day or when you 16 are logging into your normal tools -- 17 A Yes. 18 Q -- you're logging into those tools I just 19 described? 20 A Yes. 21 Q At the beginning of your day? 22 A Yes. I have to -- those tools I need, 23 definitely, no matter what. 24 Q What tools do people on the fourth floor 25 use? You were talking about earlier?</p>	<p>1 Q Currently -- okay? Currently -- is it your 2 testimony that you are currently expected to be logged 3 into your tools and the Avaya system at the start of 4 your scheduled shift? 5 A I would say -- me personally, I would say 6 the term "as early as possible" is being used. I 7 think it's even said in here, I think, somewhere. 8 They don't -- they don't amplify that phrase like you 9 indicated, being available and ready to take calls at 10 your start time. They don't use that verbiage 11 anymore. 12 Q You said as early as possible, and then you 13 pointed to something. Were you pointing to an 14 exhibit? 15 A Basically -- that's basically what's -- 16 what's -- I don't know if it's in here or not. Let's 17 see. 18 Q What exhibit are you looking at there, Mr. 19 Seward? 20 A I'm sorry. I'm looking at the Exhibit 2 21 and 3. 22 Q If you look at Exhibit 2, which I think is 23 on top there? 24 A It -- I'm looking at them -- Exhibit 3. It 25 says, "Please be advised that you are required to be</p>

Witness: Charles Seward

20 (Pages 74 to 77)

Page 74	Page 76
<p>1 available as quickly as possible at your start time." 2 Q And the date on Exhibit 3? 3 A But may -- the date on Exhibit 3 is 4 April -- April 7 of 2008. Now may I expound? 5 Q Sure. 6 A Notice there's -- it says, "No one should 7 be in AUX-3 at their start time without prior 8 approval." 9 Q And what does that mean? 10 A That means unless you got something going 11 on, you better be in and available. 12 Q There are several AUX codes; correct? 13 A That's correct. 14 Q AUX-3 is just one of the AUX codes? 15 A That's correct. 16 Q And AUX-3 is actually -- describe what your 17 understanding of AUX-3 is? 18 A AUX-3 is like an admin code, like you're in 19 an administrative code. 20 Q And when you -- when you log into the 21 phone, the Avaya first, the clock-in mechanism you 22 described -- 23 A Yes, sir. 24 Q -- if you don't press that available button 25 on the phone, what AUX code does it default to?</p>	<p>1 A I got an October 26. 2 Q Okay. Look right at the middle of the 3 page. 4 A Oh, okay. I'm sorry. 5 Q Is that October 4? 6 A Yes. 7 Q And that's to the SCET? 8 A Correct. 9 Q And you're part of that team? 10 A Correct. 11 Q And I assume you received this e-mail? 12 A Correct. 13 Q And it says, "Please be advised that you 14 are required to be available as quickly as possible at 15 your start time"; right? 16 A Yes. 17 Q Did you -- how did you interpret that? 18 A As soon as you can get your system up and 19 running, you should hit start -- available. 20 Q Did you talk to Miss Williams about what 21 was -- what she meant by this e-mail? 22 A No, sir. 23 Q Did you talk to anyone else about how they 24 interpreted this e-mail? 25 A Actually, there was discussions at</p>
Page 75	Page 77
<p>1 A I -- I'm in AUX-3. 2 Q It defaults to AUX-3? 3 A No. I'm in AUX-3. If I don't come out of 4 there, it's going to keep me in AUX-3, so you are 5 saying once -- when I log on and I'm in -- I put 6 myself in AUX-3. 7 Q So you go into AUX-3? 8 A I go right into AUX-3. 9 Q And you can go into AUX-3 through the 10 phone? You don't have to be in the computer yet? 11 A That's correct. 12 Q So your practice is when you log into the 13 phone first, before you boot up all these tools we've 14 been talking about -- 15 A Yes. 16 Q -- you go into AUX-3? 17 A Yes. 18 Q And Exhibit 3 is what you're looking at 19 there -- 20 A Yes. 21 Q -- is that correct? That's dated 22 October 4, 2007, from Miss Williams; right? 23 A The October 26 is Exhibit 2. 24 Q No. I'm -- did I read that wrong? I'm 25 sorry. October 4, 2007.</p>	<p>1 lunchtime about the e-mail. 2 Q And what were those discussions? 3 A There was discussions about people being 4 marked late or being reprimanded because they was in 5 AUX-3. 6 Q Who were those discussions with? 7 A My fellow employees. 8 Q Who specifically? 9 A I talked to Sharrie Brown. Sharrie Brown. 10 Q Spelled with a C? 11 A S -- S-H-A-R-R-I-E, and Brown is the last 12 name. 13 Q And what did she say? 14 A There was -- something happened. Just 15 basically that there was some kind of discrepancy 16 about, you know, if I'm -- you know, logging in too 17 early or, you know, and then if they forget to log in 18 while they're bringing up their system, they get 19 marked latenesses. 20 So then -- then this was -- the note came 21 out, and then they said, no one should be in an AUX-3 22 at their start time. In other words, if -- I took 23 this as -- if I'm bringing my system up and I'm in 24 AUX-3 and I'm bringing up my system and I'm not ready 25 to go yet -- it says here no one should be in AUX-3,</p>

Witness: Charles Seward

21 (Pages 78 to 81)

Page 78

1 so basically you're supposed to be in available.
 2 Q Couldn't be you be in another AUX code?
 3 A The only thing you can be in, you can be in
 4 what we call an ACW code, which is like -- you're like
 5 in abeyance code, like you're this -- you're not -- we
 6 use it for going to the bathroom.
 7 Q ACW, does that stand for after call work?
 8 A Yeah. See, you're like in abeyance status.
 9 You're not saying you're in admin mode. You're not in
 10 a training mode. You're not in -- I'm trying to
 11 think -- a meeting code. You're -- basically, we use
 12 it for going to the bathroom.
 13 Q Let me ask this question. If you -- you
 14 personally when you log into the Avaya system, go into
 15 AUX-3 as a practice; correct?
 16 A Correct.
 17 Q If you don't go into any AUX code, if you
 18 don't take any steps to go into an AUX code --
 19 A Uh-huh.
 20 Q -- do you know what the default AUX code
 21 is?
 22 A It should be ACW. If I -- if I -- if I log
 23 on, it should be an ACW, I believe.
 24 Q This e-mail that is Exhibit 3 does not
 25 restrict you from going into another AUX code;

Page 79

1 correct?
 2 A That's correct.
 3 Q Did you talk to Miss Williams about being
 4 able to go into other AUX codes when you are -- during
 5 the time you are logging in?
 6 A I don't recall, no.
 7 Q Let's turn back to Exhibit 2, Mr. Seward,
 8 and this e-mail is from Miss Williams again to the
 9 SCET Team, and it's dated October 26, 2007; correct?
 10 A Uh-huh, yes.
 11 Q Did you receive this e-mail?
 12 A I believe so, yes.
 13 Q And this is roughly three weeks -- it looks
 14 like it's three weeks and a day after the e-mail of
 15 exhibit -- that is Exhibit 3; right?
 16 A Correct.
 17 Q So a few weeks later; right?
 18 A Yes.
 19 Q And here Miss Williams says, "Team,
 20 schedule adherence is a measurement used in the call
 21 center to ensure agents are on the phones at certain
 22 times"; right?
 23 A Correct.
 24 Q Then it says, "SCET today is not required
 25 to use this measure"; correct?

Page 80

1 A Yes.
 2 Q So you agree that SCET is not under the
 3 schedule adherence measurement; right?
 4 A Yes.
 5 Q Then it says, "All calls route to Atlanta
 6 SCET from 7 a.m. to 7 p.m." Right?
 7 A Yes.
 8 Q Then it says, "If you arrive early to work,
 9 it is okay to log in. Just go into AUX-3"; correct?
 10 A Yes.
 11 Q Okay. So this e-mail that was sent roughly
 12 three weeks later than the e-mail that is Exhibit 3 is
 13 now giving you permission to go into AUX-3?
 14 A Right. And you don't need prior approval.
 15 Q Right. At that point?
 16 A Right.
 17 Q Then the last sentence is, "You are
 18 required to start working at your scheduled start
 19 time"?
 20 A Correct.
 21 Q Do you see that?
 22 A Yes.
 23 Q Now, you in this case are taking the
 24 position that logging into all your tools is work,
 25 right, that you should be compensated for?

Page 81

1 A Yes.
 2 Q Okay. Did you talk to Miss Williams about
 3 whether she too had that view?
 4 A No, sir.
 5 Q Let me go back to I think how we started
 6 this discussion, which is, let's talk currently.
 7 Currently is it your understanding that you need to,
 8 at the start of your shift -- let me ask this a
 9 different way. Strike that. What is your current
 10 shift?
 11 A Ten to seven.
 12 Q How long roughly have you had that shift?
 13 A Since the beginning of time.
 14 Q Thirty years?
 15 A No. No. No.
 16 Q I know.
 17 A No. But it's -- since we came on -- on --
 18 on the floor to take the calls and when we officially
 19 started taking calls, our start time was 10 o'clock.
 20 Q And you're talking about within SCET;
 21 right?
 22 A That's correct, sir.
 23 Q Is -- currently is it your understanding
 24 that at 10 o'clock on a day you're scheduled to work,
 25 you need to be logged into Avaya and the tools you

Witness: Charles Seward

22 (Pages 82 to 85)

Page 82	Page 84
<p>1 normally use that we discussed earlier, by 10 o'clock?</p> <p>2 A Yes.</p> <p>3 Q And where does that understanding come</p> <p>4 from?</p> <p>5 A From the management. She -- she amplifies</p> <p>6 it to us, and if you look at the exhibit -- the</p> <p>7 Exhibit 2, the last sentence that she actually</p> <p>8 indicates on October 26 says, "You are required to</p> <p>9 start working at your scheduled start time."</p> <p>10 It actually contradicts the other one</p> <p>11 where it says here, "Start at your most -- available</p> <p>12 as quickly as possible of your start time," and then</p> <p>13 in this one here, in Exhibit 2, she actually says,</p> <p>14 "You are required," and she -- I don't want to expound</p> <p>15 on it any more. I just want to say that she expects</p> <p>16 us to be up and ready and start working at our start</p> <p>17 time, not ten after, five after. She expects us to be</p> <p>18 ready at that time.</p> <p>19 Q Is your understanding of what Miss Williams</p> <p>20 expects of you currently, and that's what we've been</p> <p>21 talking about --</p> <p>22 A Yes.</p> <p>23 Q -- driven by these two e-mails that are</p> <p>24 Exhibit 2 and Exhibit 3?</p> <p>25 MR. ZOURAS: Let me just object to form,</p>	<p>1 Q Who -- did you have discussions with people</p> <p>2 who were frustrated?</p> <p>3 A Well, I know Miss Brown was. In this group</p> <p>4 everybody as a whole, but, you know, complaints are --</p> <p>5 you don't want to be known as a complainer, so they</p> <p>6 just keep it down to a low roar. That's it.</p> <p>7 Q Well, let me -- other than Miss Brown can</p> <p>8 you remember anyone else who you talked to</p> <p>9 specifically about being frustrated?</p> <p>10 A I'm just going to mention that one name.</p> <p>11 Q The -- your understanding of the</p> <p>12 expectation to be logged into your tools that you</p> <p>13 normally use and into the Avaya system --</p> <p>14 A Yes, sir.</p> <p>15 Q -- that's been your expectation going back</p> <p>16 during your entire tenure with Miss Williams; right?</p> <p>17 A Yes, sir.</p> <p>18 Q And with your time with Mr. Bethea?</p> <p>19 A Oh, yes, sir.</p> <p>20 Q And your -- I believe your testimony has</p> <p>21 been that that is the general environment, so others</p> <p>22 have that same expectation?</p> <p>23 A Could you rephrase that question?</p> <p>24 Q Well, do you know if others have that same</p> <p>25 expectation -- or have the same understanding of the</p>
Page 83	Page 85
<p>1 driven by. To the extent you can answer it, go</p> <p>2 right ahead.</p> <p>3 THE WITNESS: This is the environment that</p> <p>4 we're in. It's exhibited and expounded on at</p> <p>5 team meetings, during the workday, that we're</p> <p>6 supposed to be up and ready and available at our</p> <p>7 start time. It just -- this one e-mail does not</p> <p>8 reflect the communications, whether it's verbally</p> <p>9 or by Sametimes, instant messaging, e-mails. I</p> <p>10 -- I remember this -- these two e-mails because</p> <p>11 it was -- it was -- people were getting</p> <p>12 frustrated.</p> <p>13 BY MR. RAY:</p> <p>14 Q People were getting frustrated with these</p> <p>15 two e-mails that are Exhibit 2 and 3?</p> <p>16 A Well, no. Basically -- basically, you have</p> <p>17 really good employees who are -- who are, I can almost</p> <p>18 say never late, but they might -- might slip and</p> <p>19 say -- and they might forget to log in on their</p> <p>20 systems, but they'll be over there -- they're working</p> <p>21 bringing up their systems and everything, and they</p> <p>22 just happen to forget. And this was an exercise where</p> <p>23 what is the difference if we just log in right -- you</p> <p>24 know, because quote, unquote, we're not on a schedule</p> <p>25 adherence.</p>	<p>1 expectation? And by expectation I mean the</p> <p>2 expectation that you described that you be logged into</p> <p>3 your tools --</p> <p>4 A Uh-huh.</p> <p>5 Q -- and the Avaya system by the start of</p> <p>6 your scheduled time?</p> <p>7 A Right. That's -- that's the normal</p> <p>8 understanding on the floor. Partner World, the other</p> <p>9 entitlement teams. You have to be logged on and</p> <p>10 available and ready to take calls at your start time.</p> <p>11 Everybody talks -- everybody -- it's -- that's common</p> <p>12 knowledge.</p> <p>13 Q And a minute ago you said around this</p> <p>14 time -- I think you were referring to the time of the</p> <p>15 Exhibit 2 and 3 --</p> <p>16 A Uh-huh.</p> <p>17 Q -- people were frustrated?</p> <p>18 A Uh-huh.</p> <p>19 Q And if the expectation has always been to</p> <p>20 be logged into all these tools and phone ready at the</p> <p>21 start of your shift, why were people frustrated?</p> <p>22 A Well, they were there working, and</p> <p>23 sometimes it slipped their mind to log -- to log on at</p> <p>24 the last minute, so they might be bringing up their</p> <p>25 system and lets you know it's 10:01. Man, I'm going</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

23 (Pages 86 to 89)

Page 86

1 to be marked late. And they've already been sitting
2 there like 20 minutes bringing up their system. You
3 see what I'm saying?
4 And so what happens, they get caught, if
5 I can use the term, you know, with their shoes off or
6 whatever, and, you know, they say, oh, I forgot to log
7 on. Because what happened was, the dictation was, two
8 minutes -- one minute or two minutes before your start
9 time, then you log onto your system.
10 Q And who gave that direction?
11 A That -- that normally came from our lead
12 folks, the lead person for the team and management.
13 Their -- their -- their input was that, you know, by
14 logging in early, it would affect our productivity
15 numbers.
16 Q But then these e-mails that are Exhibit 2
17 and 3 corrected that --
18 A Right.
19 Q -- for the SCET -- SCET Team?
20 A That's correct, because I was on the team
21 at that time. I'm not talking about Teach. I'm
22 talking about SA -- S --
23 Q Was IBM Teach on schedule adherence?
24 A Yes. Yes.
25 Q And does logging in early, when you say it

Page 87

1 affects the numbers --
2 A Yes.
3 Q -- is it your understanding it affects that
4 schedule adherence?
5 A Schedule adherence and the -- the verbiage
6 that we were given most of the time was the
7 productivity numbers.
8 Q Which productivity numbers?
9 A I guess whatever numbers are generated.
10 The revenue is generated versus the head count, you
11 know, that -- I guess the -- you got ten people
12 producing X amount of revenue. Their verbiage was
13 that by logging in too early, it would affect our
14 productivity numbers. In other words, we're showing
15 too many man-hours to perform the job that we're
16 doing.
17 Q And that didn't take into account -- your
18 understanding is that doesn't back out AUX time?
19 A We were not allowed to log in early. We
20 was not allowed to log in early.
21 Q Who didn't allow you to log in early?
22 A The management team. We were told
23 specifically not to log in early. We were told
24 constantly to don't log in until possibly one or two
25 minutes before your start time.

Page 88

1 Q Mr. Bethea told you that?
2 A Yes.
3 Q Miss Williams also?
4 A We were -- we were told not to log in until
5 one or two minutes before our start time.
6 Q Up until Exhibit 2 and Exhibit 3?
7 A Yes, correct. That's correct. And, see,
8 that's what is interesting about both of these
9 exhibits, because there was such a big emphasis on
10 logging in just before your start time, and now here,
11 in this -- in this e-mail, they said, hey, it's no
12 problem; go ahead and log in anytime you want; it's
13 not a problem.
14 Q I'll come back to that in just a second.
15 A Now, it's important -- may I expound?
16 Q Sure.
17 A There's -- there's a -- we are -- we're
18 given guidelines. It says here that we're not on
19 schedule adherence, but yet we're given guidelines not
20 to use this code, AUX-3, more than ten percent of our
21 time. Same thing with ACW. We have to keep on saying
22 that we're not on schedule adherence.
23 Q Let me -- well, let me ask a question
24 first. When I was asking if your understanding of the
25 expectation regarding what you needed to do to be

Page 89

1 ready for the start of your shift was driven by
2 Exhibit 2 and 3, you discussed the environment that it
3 was expounded on -- expounded on at team meetings,
4 Sometimes, and you referenced to e-mails?
5 A Yes.
6 Q So do you believe there are other e-mails
7 out there that would clarify that expectation or that
8 addressed that expectation?
9 A I would think so, sir, but I cannot --
10 because I -- I had to reflect to remember this e-mail,
11 but possibly -- there's definitely Sametime
12 information out there, probably.
13 Q Let me hand you what's been marked as
14 Exhibit 4.
15 (Thereupon, marked for identification,
16 Defendant's Exhibit D4.)
17 MR. ZOURAS: Thanks.
18 BY MR. RAY:
19 Q And that is, I believe, the same e-mail
20 that is Exhibit 2 forwarded to your -- or -- well, I
21 shouldn't say that. Forwarded to the e-mail address
22 SewardCYK at AOL dot-com on April 7, 2008. Do you see
23 that?
24 A Yes.
25 Q Is SewardCYK at AOL dot-com your personal

Witness: Charles Seward

24 (Pages 90 to 93)

Page 90	Page 92
<p>1 e-mail?</p> <p>2 A Yes.</p> <p>3 Q Why did you forward that e-mail to your</p> <p>4 personal account?</p> <p>5 A Because I wanted to keep a record of this</p> <p>6 because I was -- I didn't remember this e-mail. This</p> <p>7 e-mail came from a fellow employee who was upset about</p> <p>8 this current situation also.</p> <p>9 Q Who was that?</p> <p>10 A Sharrie Brown. She said, yes, we were told</p> <p>11 that all the time. I mean, they keep telling. I</p> <p>12 remember she was complaining about it, and then --</p> <p>13 people as a whole was complaining about it, and then</p> <p>14 she said, I kept that e-mail, you know, because there</p> <p>15 were times when -- she's very conscientious, so -- you</p> <p>16 know, she is never late, things of that nature. But</p> <p>17 the reason why I forwarded that, because this is a</p> <p>18 good example, where all of the sudden, the rules were</p> <p>19 thrown out the door.</p> <p>20 Q What rules were thrown out the door by this</p> <p>21 e-mail?</p> <p>22 A About these signing on a minute before the</p> <p>23 start time, because there was a high focus. There's</p> <p>24 -- I don't know how to -- there's no adjective I can</p> <p>25 explain that -- on the drilling that we would get</p>	<p>1 BY MR. RAY:</p> <p>2 Q Do you know what the -- is your AOL e-mail</p> <p>3 account, do you know whether it's swept periodically</p> <p>4 or automatically take out e-mails?</p> <p>5 A I -- I should be able to pull everything,</p> <p>6 my history, anything that I sent to myself. I should</p> <p>7 be able to pull it, because I send like stuff for</p> <p>8 whether it's a 401(k). It should have everything in</p> <p>9 there. So I remember this one because before that, it</p> <p>10 was like, there's no way. They say you better log in</p> <p>11 one or two minutes before. That's why I kept --</p> <p>12 Q Did you send, then, to your personal</p> <p>13 e-mail, any e-mails that you had that you thought</p> <p>14 beared on your -- your position in this case?</p> <p>15 A Yes. Yes.</p> <p>16 Q Any Sametime messages? Did you forward any</p> <p>17 of those to your e-mail?</p> <p>18 A No. No. I keep them. They're in my -- if</p> <p>19 something comes up, I will just print screen and then</p> <p>20 put it -- in fact, I still have it out there just as a</p> <p>21 draft. If you look at -- if you go out there, there's</p> <p>22 like -- if you go out and look at my e-mail drafts,</p> <p>23 you'll see that there's a blank subject line, draft,</p> <p>24 and in there is screen shots or my Sametimes that I</p> <p>25 think is important, but to be honest, I don't think I</p>
Page 91	Page 93
<p>1 about logging in a minute or so before the start time,</p> <p>2 and this here threw that whole theory out -- out the</p> <p>3 door.</p> <p>4 Q And so you forwarded this to yourself --</p> <p>5 A Yes.</p> <p>6 Q -- to keep track of it?</p> <p>7 A To keep track of it, that's correct.</p> <p>8 Q And you forwarded other e-mails to</p> <p>9 yourself?</p> <p>10 A That's correct. Anything that -- that I</p> <p>11 felt that was -- not off -- I don't want to use the</p> <p>12 word "offensive," but to defend my position.</p> <p>13 Q And how many e-mails roughly did you</p> <p>14 forward to yourself on this issue?</p> <p>15 A On this issue, that -- I can go and check,</p> <p>16 but maybe six or -- I'm not sure.</p> <p>17 MR. RAY: I would just ask for the record</p> <p>18 that we get those. We only got three, and this</p> <p>19 one was not produced by you guys, I don't think.</p> <p>20 Well, I guess it could be. No, this one was not.</p> <p>21 There was another one that was. So I would ask</p> <p>22 for the record, that we check that --</p> <p>23 THE WITNESS: Yes.</p> <p>24 MR. RAY: -- and --</p> <p>25 MR. ZOURAS: Absolutely. We will.</p>	<p>1 have any Sametimes pertaining to this issue.</p> <p>2 MR. ZOURAS: For purposes of clarity, is</p> <p>3 that the same as IM? Instant message?</p> <p>4 THE WITNESS: Right, instant message. Yes.</p> <p>5 Sametime is the same.</p> <p>6 MR. ZOURAS: Thank you.</p> <p>7 MR. RAY: I'm not positive if they're</p> <p>8 exactly synonymous.</p> <p>9 MR. ZOURAS: Okay. Thank you.</p> <p>10 BY MR. RAY:</p> <p>11 Q Give me one second here. I want to address</p> <p>12 something that I asked.</p> <p>13 THE WITNESS: Do I get to keep this?</p> <p>14 MR. ZOURAS: Oh. We're going to attach</p> <p>15 copies to the deposition, so --</p> <p>16 THE WITNESS: Okay.</p> <p>17 MR. ZOURAS: -- you'll have access to it.</p> <p>18 BY MR. RAY:</p> <p>19 Q I want to go back and cover a little more</p> <p>20 background to understand some timing issues. You live</p> <p>21 at 315 Carriage Lake --</p> <p>22 A Yes.</p> <p>23 Q -- is that correct? How far is that</p> <p>24 roughly from the call center?</p> <p>25 A Thirty-seven miles.</p>

Witness: Charles Seward

25 (Pages 94 to 97)

Page 94	Page 96
<p>1 Q Thirty-seven miles? All right. And how 2 long does it take you on average to commute from your 3 home to the call center? 4 A Forty to 45 minutes. I come in late. No 5 traffic. 6 Q And I assume even though you have the 7 10 o'clock start time, that the commute time can vary 8 depending on accidents, those types of things? 9 A Currently, yes. 10 Q What time do you typically leave your house 11 to go to the office? 12 A If no stops, just straight run, nine -- ten 13 minutes to nine, a quarter -- a quarter to nine. 14 Q Quarter to nine? 15 A A quarter to nine now, currently. 16 Q And you said you -- 17 A I mean, I'm sorry. Quarter -- quarter to 18 nine, yes. 19 Q And you said you've been on this 20 ten-to-seven shift since you started SCET? 21 A Correct. 22 Q So is a quarter to nine the average time 23 you leave for -- 24 A It actually varies. It varies on the day 25 of the week, time of the year. That's why I'm saying</p>	<p>1 drops me off first, it's a 35-minute commute 2 sometimes. That's how easy it is, because we just go 3 straight through downtown, through the HOV lane, and 4 we just come straight here. So it's still 40 5 minutes -- 40 minutes. 6 Q And I assume when you car pool, depending 7 on who gets dropped off first, that can impact your 8 arrival time at the office? At the call center? 9 A No. Not -- well, not really because I 10 normally don't come straight here. If I drop her off, 11 I normally don't straight -- come straight to work, 12 rather. 13 Q What time do you typically arrive at the 14 call center? 15 A Currently it depends. Again, it varies 16 from situation. If I -- I tend to stop before I go. 17 I tend to -- not to come straight to work. So I try 18 right now to get 25 to 20 minutes beforehand. That's 19 currently. 20 Q And when you say currently, what period of 21 time does that cover? 22 A The last few months. Two months, three 23 months. 24 Q Prior to that, were you getting to work 25 earlier? Later?</p>
Page 95	Page 97
<p>1 it's -- it varies, actually. 2 Q Do you ever car pool? 3 A Yes. 4 Q Who do you car pool with? 5 A With my wife. 6 Q Does she work -- does she work at the same 7 facility? 8 A No, sir. 9 Q Where does she work? 10 A Works at Highlands. Highlands location in 11 Smyrna, Georgia. 12 Q Who gets dropped off first? 13 A Let me see. It varies. The main reason is 14 because sometimes she'll -- it's faster to come to me 15 first. I car pool maybe two to three times a week 16 now, currently. Like today, I didn't. Maybe 17 yesterday I didn't. Tomorrow I won't. So it could 18 be -- really, it could be no car pooling to maybe one 19 to three times a week. It depends on what we're 20 doing. 21 Q And is that -- has that been going on for 22 the last couple of years -- 23 A No. 24 Q -- or is that fairly recent? 25 A It's fairly recent with the gas, and if she</p>	<p>1 A Half an hour prior. 9:30ish. 2 Q And I assume these times are average times? 3 A Average times. Thirty -- usually between 4 20 and 25 of ten. Twenty -- 20 after nine to -- to -- 5 to 25 minutes to ten. 6 Q And there have been times you've been late? 7 A Yes. There's times I've been late, yes. 8 Q When you arrive -- let's just pick 9:30. 9 You arrive at 9:30? 10 A Yes, sir. 11 Q Your shift doesn't start until ten? 12 A Correct. 13 Q We talked earlier about the fact that it 14 takes you seven to eight to up to 12 minutes to log 15 into your tools, and -- 16 A Yes. 17 Q -- it takes a couple seconds to log into 18 the Avaya tool. What do you do if you get there at 19 9:30? You go to the break room? Do you read the 20 paper? Do you -- 21 A Prior -- before this situation -- before or 22 after? Currently or before? 23 Q Let's start with current, and then we'll 24 define current? 25 A Currently I really don't do too much at all</p>

Witness: Charles Seward

26 (Pages 98 to 101)

Page 98	Page 100
<p>1 at my workstation until my start time. I might -- I</p> <p>2 might once in a while hit the start-up button, but</p> <p>3 normally I don't do anything now.</p> <p>4 Q Until your start?</p> <p>5 A Until my start time. I might push a button</p> <p>6 and get it going, something like that once in a while,</p> <p>7 but if you check my system or whatever, you'll see</p> <p>8 that now I usually don't try to do anything until</p> <p>9 after my start time.</p> <p>10 Q Including logging into your --</p> <p>11 A That's correct.</p> <p>12 Q And when you say current, let's define</p> <p>13 that. How long are you including? How much time are</p> <p>14 you including in current as you just described it?</p> <p>15 A I would say -- let's say June of last year</p> <p>16 to now, current. No, I'm sorry. Let me rephrase</p> <p>17 that. I'm thinking -- I'm thinking June of this year.</p> <p>18 June -- I could be -- this is ballpark.</p> <p>19 Q Roughly?</p> <p>20 A If they look at my sign-ons and how I'm</p> <p>21 bringing up the system, I believe it's around the</p> <p>22 beginning of June that I started focusing on just</p> <p>23 working after my start time.</p> <p>24 Q And why did you do that?</p> <p>25 A Two reasons. Number 1, I wanted to see</p>	<p>1 started the practice of not doing anything until your</p> <p>2 shift starts?</p> <p>3 A That's correct.</p> <p>4 Q Including logging into tools?</p> <p>5 A Basically. It might -- other than maybe</p> <p>6 hitting start on the button -- on the system, you</p> <p>7 know, prior to 10 o'clock, but most of the time I</p> <p>8 don't start trying to do any -- bringing up the</p> <p>9 applications.</p> <p>10 Q Prior to June -- roughly June of '08 --</p> <p>11 A Yes.</p> <p>12 Q -- prior to when you started this practice,</p> <p>13 what would you do when you arrived at, let's say,</p> <p>14 9:30, half an hour before your shift time?</p> <p>15 A I would -- I would start bringing up my</p> <p>16 system. I would -- at least bring up the actual</p> <p>17 workstation, meaning that it powered up. Now, I might</p> <p>18 not have -- basically, I would not start trying to</p> <p>19 bring up the applications until I was going to</p> <p>20 actually sit down and not move again.</p> <p>21 So it was probably -- okay. I might hit</p> <p>22 start on the system, let the system start bringing</p> <p>23 itself up, and then probably -- my rule of thumb was</p> <p>24 15 minutes of, start bringing up your systems because</p> <p>25 you don't know what's going to happen. So I usually</p>
Page 99	Page 101
<p>1 what the average was, and second of all, I'm not</p> <p>2 getting paid to come in here early and bring up my</p> <p>3 system.</p> <p>4 Q So roughly in June of '08 you started this</p> <p>5 process?</p> <p>6 A Yes. Basically, I wanted -- I wanted to</p> <p>7 see -- counselor, I wanted to see realistically what</p> <p>8 -- if -- every different situation would come up,</p> <p>9 whether there was an application that didn't come up</p> <p>10 or the system would hang or come up and then I have to</p> <p>11 take it back down or -- I just wanted to see what</p> <p>12 would -- see what would happen. It was not an -- you</p> <p>13 know, antistical (phonetic) or getting -- being -- I</p> <p>14 don't know how to explain it, but I wasn't being</p> <p>15 spiteful or anything.</p> <p>16 I wanted to see in the current</p> <p>17 environment what the -- you know, being focused on the</p> <p>18 workstation itself, seeing how long on the average it</p> <p>19 would take to do this? And what I did was -- I still</p> <p>20 do it today. I even will factor in -- I'll start</p> <p>21 bringing up my system and just see how long it take to</p> <p>22 come up.</p> <p>23 Q But starting in June 2008 --</p> <p>24 A Yes, sir.</p> <p>25 Q -- or roughly in June of 2008, you have</p>	<p>1 try to do that so I'll be in available at around</p> <p>2 10 o'clock, my start time.</p> <p>3 Q So you would -- and again I'm using the</p> <p>4 scenario where you arrived roughly a half hour before?</p> <p>5 A Yes, sir.</p> <p>6 Q And this is preJune of '08, or roughly '08?</p> <p>7 A Yes, sir.</p> <p>8 Q You might start the computer to get it up</p> <p>9 to the screen, the workstation?</p> <p>10 A Right. Where you have all your icons up.</p> <p>11 Q And then what would you do? Go get coffee?</p> <p>12 Sit there? What would you do while you were --</p> <p>13 A I heated my coffee. I like it hot, so that</p> <p>14 might take a minute or two. Then I come back and then</p> <p>15 start bringing up the icons. That's it.</p> <p>16 Q And when would you start bringing up the</p> <p>17 icons?</p> <p>18 A Right away. Because I wanted -- prior to</p> <p>19 June, or May 1, I would do my best to try to have all</p> <p>20 those systems up and ready and I'll be in available as</p> <p>21 close to my start time as possible.</p> <p>22 Q And earlier you said seven to eight to 12</p> <p>23 minutes to do that?</p> <p>24 A Yes. I mean, this is -- after June 1</p> <p>25 started just taking a look and see how -- you know,</p>

Witness: Charles Seward

27 (Pages 102 to 105)

Page 102

1 what's going on right now with the systems, you know.
 2 Because they have changed again. They have changed
 3 again, the systems itself. We have other applications
 4 that we got to bring up, and they have to work. The
 5 SBClient is new.
 6 Q When did that become --
 7 A About a month -- about a month now, I
 8 guess.
 9 Q So preJune of '08 this -- you would turn on
 10 the computer?
 11 A Yes, sir.
 12 Q I think you said 15 minutes was your rule
 13 of thumb?
 14 A Yes.
 15 Q At a quarter till, you would start the
 16 process of booting up the tools; is that right?
 17 A Yes, sir.
 18 Q And then if it was an average day, you'd be
 19 in your tools in seven to eight minutes roughly?
 20 A That's -- probably a little bit longer, but
 21 without any instances where a system might -- I would
 22 say -- let me -- let me back up a little bit. When I
 23 said seven to eight minutes, that's where I started at
 24 eight -- I mean at ten. Everything's clean, and I'm
 25 doing my -- I would say now, I mean, prior, I would

Page 103

1 say at least eight to ten minutes, yes.
 2 Q What was different prior? Why would it
 3 take longer to boot up?
 4 A The systems, they change. Sometimes you'll
 5 -- like even now, even -- there's some applications
 6 that go up and down, up and down all day long, but
 7 normally it might do it once when you first bring it
 8 up and then maybe once during the day or something
 9 like that, but if something like that happens, then
 10 you're just going to have to add on some more time to
 11 it. It's -- in other words, it's never a clean
 12 start-up, I mean, five days a week.
 13 Q When we were talking about the bootup time
 14 before, you were talking currently --
 15 A Yes.
 16 Q -- that you had looked at it. I think you
 17 said you looked at it over the last six months or so?
 18 A Yes. From June to now. I'm sorry. I said
 19 six months. I mean from June, beginning of June to
 20 currently.
 21 Q Okay. And I think that was the seven to
 22 eight minutes to roughly 12 minutes --
 23 A Yes.
 24 Q -- if there's a problem?
 25 A Yes.

Page 104

1 Q Let's talk before that time.
 2 A Uh-huh.
 3 Q Prior to June of 2008 did you specifically
 4 look at how long it took you to log into your tools?
 5 A I was not focused on how long it took me to
 6 come up, but that -- that rule -- as you indicated,
 7 that rule of thumb that you was speaking about
 8 earlier, 15 minutes of is in case, because there's
 9 always something came up. Some -- nothing came up
 10 five days a week, smooth and nothing hung, application
 11 did not come up. Lotus -- something might happen to
 12 Lotus Notes, so to allow yourself error, a buffer, I
 13 mean, 15 minutes at least.
 14 Q Do you know if others used that 15-minute
 15 rule of thumb?
 16 A That, I can't speak on, but if they wanted
 17 to be in available, they had to be there -- they had
 18 to be there early or, you know, they were -- there
 19 were lead people that might see you log in on your
 20 phone, but if you are not up and -- if you are not in
 21 available, what's going on?
 22 Q Well, there was -- there's -- certainly at
 23 some point, because we talked about it earlier, your
 24 understanding was you could log into your phone before
 25 logging into the tools?

Page 105

1 A Sure, sure, sure.
 2 Q And when did you start that again?
 3 A Meaning?
 4 Q When did you understand that you could log
 5 into the phone before logging into the tools?
 6 A Back in October.
 7 Q Of '07?
 8 A '07.
 9 Q So the first part of '08, so it's after
 10 October of '07, you could log into your phone and then
 11 log into your tools. Did you still use the 15-minute
 12 rule of thumb?
 13 A Yes, uh-huh. I had to. You had to.
 14 Otherwise you would not be ready by your start time.
 15 Q You would be clocked in, though, through
 16 the Avaya?
 17 A Yes. You'd be clocked in, but you would
 18 not be ready to take calls.
 19 Q And how would -- who would -- was there a
 20 report or something that showed if you were not ready
 21 to take calls?
 22 A Yes. Yes. You could see who was in
 23 available and who's not. The Avaya phone system --
 24 phone system is not just a phone system, per se, just
 25 to, you know, log in, clock in, clock out. You can

Witness: Charles Seward

28 (Pages 106 to 109)

Page 106	Page 108
<p>1 produce any type of reports you want. You can break 2 them down in any kind of increments. Start time, 3 break times. I used to run those reports. I can't 4 remember. It's so many different reports you can run 5 off that. You can break it down to the individual 6 agents, and you can see when they actually logged in. 7 They can see anything they want on it. 8 Q Are there -- have you ever -- and let's 9 start -- let's go back preJune of '08. We've talked 10 about what you've been doing since June of '08, and I 11 want to go before that. 12 A Yes. 13 Q Have you ever logged into the phone, 14 started logging into your tools, and before all the 15 tools are up that you normally use, hit available? 16 Because you can handle a call while booting up, or at 17 least booting up some of the tools? 18 A Before my start time? 19 Q Even at -- at your start time? 20 A I would say knowing me, I probably have 21 done it, so in other words, as a -- as the systems are 22 coming up, I know I got two of them that I know I can 23 start a call with and the other ones are coming. 24 Q Right. 25 A Yes, I've done that.</p>	<p>1 specifically say I did it. 2 Q Do you know if other people have done it? 3 A Oh, heck, yeah. Oh, heck, yeah, but I'm 4 not going to name names, and it's the environment that 5 we're in, and that goes back to that same thing about 6 being available at your start time. Folks are 7 mindful. You might log in, but you're supposed to be 8 available. You're supposed to be available also. 9 Q I want to make sure I've covered the time 10 period with the log-in time. 11 A Yes. 12 Q We talked about since June of '08 you 13 looked at the log-in times, and it was seven to eight 14 to up to 12? 15 A Yes. 16 Q Prior to that time, I think I asked, did 17 you ever really look at and analyze the log-in times, 18 and I'm not sure you answered that specific question. 19 You gave me some information, but did you -- and I'll 20 ask it again: Did you prior to this, June of '08 to 21 current time period, look at that issue? 22 A Not like I did after June 1. 23 Q Prior to June of '08 there have -- is it 24 your recollection that it took a little longer to log 25 into your normal tools than it did post-June of '08</p>
Page 107	Page 109
<p>1 Q So you're -- there have been times -- again 2 we're preJune of '08 -- where you start logging into 3 your tools before your shift starts, you logged into 4 Avaya, and you hit available on the phone before all 5 those tools we talked about, the normal tools, are 6 actually booted up? 7 A At my start time. 8 Q As of your start time? 9 A Start time. Not -- I really don't try and 10 do that before my start time. 11 Q But at your start time? 12 A Because I end up getting -- a customer will 13 be on the line and I would not be able to help them. 14 Q So let's just try to make it a little more 15 concrete. Your start time is 10 o'clock? 16 A Yes. 17 Q You log into the phone before 10 o'clock. 18 You start logging into your tools before 10 o'clock, 19 but at 10 o'clock your tools are still booting up. 20 There have been times you still hit available because 21 you know you can handle the call? 22 A I haven't done that in a long time if I -- 23 I can't remember actually doing it, but knowing me, if 24 something -- you know, it was crunch time or 25 something, I could have done it, but I can't</p>	<p>1 when you started looking at it more closely? 2 A I -- to be honest with you, I just go by -- 3 you know, I just don't like being late, and plus my 4 rule of thumb was, again, you know, at least give 5 myself 15 minutes to get everything up so I'll be 6 available. 7 Q If you -- let's say you are using the 8 15-minute rule of thumb -- 9 A Uh-huh. 10 Q -- and you have a -- it's kind of an 11 average day, and so you start the 15 minutes. You 12 start with your 15-minute rule of thumb, and you're 13 booted up and everything within seven to eight 14 minutes? 15 A Yes, sir. 16 Q So there's still seven minutes. We'll use 17 the eight minutes, but there's still seven minutes to 18 your start time? 19 A Yes, sir. 20 Q So you're ready to go, and there's a 21 seven-minute window -- 22 A Yes, sir. 23 Q -- here before you hit available. What do 24 you do during that seven minutes? Or what did you do? 25 A Normally what I do, I'll take a look at my</p>

Witness: Charles Seward

29 (Pages 110 to 113)

Page 110

1 e-mails, see if any type of communicate -- because
 2 sometimes a customer will e-mail confirmation of
 3 their, what we call entitlement for support.
 4 Q Right.
 5 A There's like, for -- again, this is
 6 elective on my part, you know, but you want to prepare
 7 yourself for your day, so you're going through what
 8 work might be there. Might look in the queue, see if
 9 you got anything on hold, if you will. I'm not the
 10 great queue master, but the calls that I've been
 11 working, I'll look at those that I have currently on
 12 hold status, if you will. Stuff like that.
 13 Q Do you -- did you ever do personal e-mails
 14 during that time?
 15 A Probably. Maybe. I don't know. Probably
 16 so.
 17 Q Did you -- did you ever check the Internet
 18 for personal reasons --
 19 A Yes.
 20 Q -- during that time?
 21 A Yes.
 22 Q Before your shift started?
 23 A Yes.
 24 Q Did you ever tell your supervisor that you
 25 were doing that prior to your shift? Checking the

Page 111

1 Internet or checking personal e-mails?
 2 A No. When you say personal e-mail, you mean
 3 on IBM --
 4 Q Yes.
 5 A I --
 6 Q On the IBM?
 7 A No, I don't go on AOL.
 8 Q Right. No. On the IBM system?
 9 A No. I just check my e-mails. I don't go
 10 in there saying, this is personal, this is IBM, this
 11 is personal, or somebody -- my wife might send me
 12 something, or I don't -- I don't differentiate on the
 13 e-mail when I go through them.
 14 Q Do you know if Miss Williams, for example,
 15 knew whether you were doing personal things before
 16 your shift started?
 17 A No. No. She never mentioned that to us.
 18 She -- she -- she had ways of making statements like,
 19 you know, I know what Web sites you're on or where
 20 you're going and stuff like that, and she just made
 21 comments like that ongoing.
 22 Q Is there -- is there a policy that
 23 prohibits doing -- checking the Internet before your
 24 -- for personal reasons before your shift starts, or
 25 is that acceptable?

Page 112

1 A No. They never say anything to us about
 2 that because -- no, they don't say anything. I
 3 mean -- no, they have not really said anything like
 4 that.
 5 Q Where does Miss Williams sit in relation to
 6 you?
 7 A I would say possibly from seat to seat,
 8 maybe -- trying -- I'm good at -- maybe 25 feet away,
 9 probably approximately two or three cubicle walls in
 10 between.
 11 Q It's a cubicle system?
 12 A Yes.
 13 Q Have you been in the same cubicle for the
 14 entire time you have been on the SCET Team?
 15 A No, sir.
 16 Q How many different cubicles have you been
 17 in?
 18 A Just two.
 19 Q Was your answer when I asked you about
 20 where Miss Williams sat, with respect to your current
 21 cubicle?
 22 A Yes.
 23 Q When did you move to your current cubicle?
 24 A Gosh, I -- I don't know. I'm not sure when
 25 they actually moved us.

Page 113

1 Q Do you recall where your previous cubicle
 2 was?
 3 A Yes.
 4 Q Where was that in relation to
 5 Miss Williams?
 6 A Oh, gosh. That might be 50 feet or
 7 60 feet, just averaging it. Probably 50 feet, yes.
 8 At least 50 feet. Sixty feet, maybe. I'm not sure.
 9 MR. RAY: Apparently they're building a
 10 building next door.
 11 MR. ZOURAS: I'm glad to see the progress in
 12 the community.
 13 BY MR. RAY:
 14 Q Do you -- we've talked about checking the
 15 Internet while you're waiting for your shift to start
 16 or personal e-mail --
 17 A Yes.
 18 Q -- before the shift starts.
 19 A Yes.
 20 Q What about during your shift? Have you
 21 ever checked the Internet for personal reasons during
 22 your shift?
 23 A Yes. I have -- I've been on the Web sites.
 24 Q And do you go into an AUX code when you are
 25 doing that?

Witness: Charles Seward

30 (Pages 114 to 117)

Page 114	Page 116
<p>1 A No, sir. Not unless if I was on my break 2 or something like that, maybe. 3 Q You might do it on your break? 4 A Well, I'm just saying, when you say am I in 5 an AUX code, I'm not sure if I understand. 6 Q Well, do you -- well, let me ask it a 7 different way. That's fair enough. 8 A Yes, sir. 9 Q You get a lunch -- 10 A Yes. 11 Q -- right? And then you get -- for an 12 eight-hour shift, anyway, you get two 15-minute 13 breaks -- 14 A Yes. 15 Q -- is that correct? 16 A That's correct. 17 Q Do you ever during your break time, for 18 example, check the Internet? 19 A Yes. 20 Q For personal reasons? 21 A Yes. 22 Q During lunch do you ever check the Internet 23 for personal reasons? 24 A Yes. Well, sometimes, yes. 25 Q And what about personal e-mail? Do you use</p>	<p>1 BY MR. RAY: 2 Q And this is an e-mail dated September 26, 3 2006, and it appears to be from your IBM account to 4 your personal AOL account; is that correct? 5 A That is correct. 6 Q Is this the type of e-mail that you would 7 still have a copy of in your AOL account? 8 A I don't think so. Basically what this was, 9 I wanted his e-mail address because I wanted to send 10 him an e-mail from my home -- my home account. 11 Q Did you manually delete this e-mail from 12 your AOL account, or would it have been swept? 13 A It probably swept, sir, because I don't 14 even -- that's a long time ago, right. Yes. 15 Q A couple years ago? 16 A Yes. 17 Q Do you -- I think I asked you this before. 18 Do you know how often AOL automatically -- 19 A I'm not sure. 20 Q -- deletes? You don't know? 21 A I'm not sure, sir. 22 Q And you wanted to send Mr. MacDonald an 23 e-mail from your personal e-mail? 24 A That's correct. 25 Q Mr. MacDonald is who?</p>
Page 115	Page 117
<p>1 that during break sometimes? And by personal I mean 2 the IBM e-mail but for personal reasons? 3 A Possibly, yes. 4 Q Lunch? The same thing? 5 A Yes. Generally speaking, I -- I could do 6 that, yes. 7 Q Do you ever check the Internet for personal 8 reasons when you are not on a break, one of your 9 scheduled breaks, or lunch? 10 A Yes. 11 Q And how would you have time to do it? I'm 12 trying to understand what state you -- 13 A If I'm waiting on a call. Say I'm in 14 available and we're just waiting for a call to come 15 in. I would do it at that time. 16 MR. RAY: How much time do you have on the 17 tape? 18 THE VIDEOGRAPHER: Ten minutes. Change it 19 early if you need it to. 20 BY MR. RAY: 21 Q We'll get started and then go through some 22 exhibits hopefully fairly quickly here. I'll hand you 23 what's been marked as Exhibit 5. 24 (Thereupon, marked for identification, 25 Defendant's Exhibit D5.)</p>	<p>1 A I'm sorry? 2 Q Mr. MacDonald is who? What position? 3 A He's in HR, head of HR, human resources. 4 Q Do you recall what e-mail you wanted to 5 send from your personal e-mail? 6 A I think I had some issues about the 7 training that we had. 8 Q I think I may have some on that. We'll 9 come back to it. 10 (Thereupon, marked for identification, 11 Defendant's Exhibit D6.) 12 BY MR. RAY: 13 Q Let me hand you what's been marked as 14 Exhibit 6, and first I'll ask you if you recognize 15 that e-mail? 16 A Yes. 17 Q And that is an e-mail from you -- from your 18 IBM account; right -- 19 A Yes. 20 Q -- to Dan Motta? 21 A Yes. 22 Q Who is Dan Motta? 23 A An old high school friend from years ago. 24 Q This one is dated September 29, 2006; 25 correct?</p>

Witness: Charles Seward

31 (Pages 118 to 121)

Page 118	Page 120
<p>1 A Yes.</p> <p>2 Q So that's before you went into SCET? I</p> <p>3 think you went into SCET, I think you said earlier,</p> <p>4 January of '07.</p> <p>5 A I thought I had sent this to him prior to</p> <p>6 that. I would think that's prior, I guess. Yes.</p> <p>7 Q And --</p> <p>8 A Yes.</p> <p>9 Q This was, I believe, based on the</p> <p>10 chronology we talked about, near the end of the time</p> <p>11 you were in IBM Teach?</p> <p>12 A Yes. We was dormant.</p> <p>13 Q What do you mean by dormant?</p> <p>14 A We wasn't doing much.</p> <p>15 Q Was it in the process of being transitioned</p> <p>16 to Manila?</p> <p>17 A October 1 we were told, and then -- that 90</p> <p>18 days we were going to be -- we were going to be --</p> <p>19 opportunity -- given the opportunity to find another</p> <p>20 job.</p> <p>21 Q That was on October the 1st?</p> <p>22 A It was the first week in October, I</p> <p>23 believe.</p> <p>24 Q And Mr. Bethea was your supervisor then?</p> <p>25 A Yes. Yes.</p>	<p>1 Q During this time period, in the latter part</p> <p>2 of 2006 when IBM Teach got so slow --</p> <p>3 A Yes.</p> <p>4 Q -- were you still under the impression or</p> <p>5 was it your understanding that you still needed to be</p> <p>6 phone ready at the start of your scheduled shift?</p> <p>7 A Yes, sir. Yes, sir.</p> <p>8 Q Were there any discussions with you or</p> <p>9 anyone -- well, let me strike that. Were there any</p> <p>10 discussions from management that you were privy to</p> <p>11 about softening the schedule because there was</p> <p>12 nothing to do?</p> <p>13 A That, I don't recall. I know we still were</p> <p>14 supposed to be up and ready to go.</p> <p>15 Q This -- this e-mail that's Exhibit 6, is</p> <p>16 the time on it -- the time stamp is 8:50 a.m.?</p> <p>17 A Yes.</p> <p>18 Q What was your schedule during that time</p> <p>19 period? Do you recall?</p> <p>20 A No. But most likely it was probably --</p> <p>21 trying to remember, because they -- they indicated to</p> <p>22 us -- I'm not sure. It might be -- I'm not sure.</p> <p>23 Q Did you ever work a ten-to-seven schedule</p> <p>24 in IBM Teach?</p> <p>25 A No. No. This is either -- it was either</p>
Page 119	Page 121
<p>1 Q And when you were told after October 1 --</p> <p>2 or on October 1 --</p> <p>3 A Approximately.</p> <p>4 Q Roughly October 1, did -- it sounds like</p> <p>5 your workload was diminishing already?</p> <p>6 A Oh, yes. Way before -- before that. It</p> <p>7 was null and void almost.</p> <p>8 Q When did it become so diminished?</p> <p>9 A It had -- I would say a good while prior to</p> <p>10 that. I can't really give you a time -- a start of</p> <p>11 it, but from -- during this period of time, gosh, we</p> <p>12 were -- we was almost doing nothing. We was getting a</p> <p>13 call maybe -- sometimes -- we even took records of it</p> <p>14 sometime. We were getting a call maybe every two and</p> <p>15 a half, two hours and 45 minutes we get a call.</p> <p>16 Q And this was in -- you said in this time.</p> <p>17 This is dated September 29, 2006.</p> <p>18 A Yes. During that period of time all the</p> <p>19 way through the rest of the year we were pretty much</p> <p>20 not taking that many calls. In fact, they even had</p> <p>21 the -- our replacements flew in, and they were -- sat</p> <p>22 with us for a while.</p> <p>23 Q They were what?</p> <p>24 A They flew in from Philippines and sat with</p> <p>25 us for a while.</p>	<p>1 nine to five or eight to -- eight to four. It might</p> <p>2 be -- 4:30 was my quit time, so it might have been</p> <p>3 eight to 4:30, something like that. I'm not sure. It</p> <p>4 was not ten to seven, though. It was not ten to</p> <p>5 seven.</p> <p>6 Q In IBM Teach?</p> <p>7 A Right. It was either like nine to five,</p> <p>8 eight to 4:30, something like that.</p> <p>9 MR. RAY: Our tape is almost out. Why don't</p> <p>10 we take a break. Maybe the jackhammering will</p> <p>11 end.</p> <p>12 THE VIDEOGRAPHER: Off video.</p> <p>13 (Thereupon, a recess was taken.)</p> <p>14 THE VIDEOGRAPHER: On video.</p> <p>15 BY MR. RAY:</p> <p>16 Q We were talking, Mr. Seward, about Exhibit</p> <p>17 6, which was an e-mail that you sent to Dan Motta</p> <p>18 in -- September 29, 2006; correct?</p> <p>19 A Correct.</p> <p>20 Q And this was when you were reporting to</p> <p>21 Mr. Bethea?</p> <p>22 A Correct.</p> <p>23 Q Did Mr. Bethea know that you -- well,</p> <p>24 strike that. Would Mr. Bethea -- or do you know</p> <p>25 whether Mr. Bethea knew that you were sending personal</p>

Witness: Charles Seward

32 (Pages 122 to 125)

Page 122	Page 124
<p>1 e-mails during your shift?</p> <p>2 A I would say, yes.</p> <p>3 Q And how would you -- why do you say yes?</p> <p>4 A Because to be honest, our workload was very</p> <p>5 low, and a lot of folks were just biding their time</p> <p>6 until -- until we was going to leave or whatever was</p> <p>7 going -- going to happen to our department, so we, you</p> <p>8 know -- we just kept ourselves busy, whether it was an</p> <p>9 e-mail or a Web site or waiting for a call.</p> <p>10 Q Did you ever have discussions with</p> <p>11 Mr. Bethea about the specific topic of doing personal</p> <p>12 activities during your shift? For example, e-mails or</p> <p>13 checking mail?</p> <p>14 A No, sir.</p> <p>15 Q What about prior to your shift? And I'm</p> <p>16 talking about under Mr. Bethea. Do you know or do you</p> <p>17 have an understanding of whether Mr. Bethea would have</p> <p>18 known whether you were doing any personal e-mails or</p> <p>19 Internet searches before your scheduled shift started?</p> <p>20 A I would say from my recollection, no. He</p> <p>21 was a late arrival.</p> <p>22 Q What -- what shift did -- I think you were</p> <p>23 talking about the possibility of --</p> <p>24 A Yes.</p> <p>25 Q -- of different shifts that you had under</p>	<p>1 A Yes.</p> <p>2 Q -- going to your personal account dated</p> <p>3 May 4, 2007?</p> <p>4 A Right.</p> <p>5 Q Do you recall sending this e-mail?</p> <p>6 A Yes.</p> <p>7 Q And this one, the time on it is 7:19 a.m.</p> <p>8 Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Do you recall what your shift was in May of</p> <p>11 2007?</p> <p>12 A May? It could have been -- May of 2007?</p> <p>13 Eight to four.</p> <p>14 Q Was this when you were in the SCET group?</p> <p>15 A No, sir. Wait a minute. Let me take this</p> <p>16 back. This is -- we should have been in the -- in the</p> <p>17 SCET group, 7 a.m. I'm trying to think of -- if we</p> <p>18 were in training class at that time. I think we were</p> <p>19 taking a training class at that time.</p> <p>20 Q Do you recall -- I'm sorry to interrupt.</p> <p>21 Do you recall what time the training class was?</p> <p>22 A I believe the training class started either</p> <p>23 at eight or 8:30.</p> <p>24 Q And it looks like you were sending a Web</p> <p>25 site location to your --</p>
Page 123	Page 125
<p>1 Mr. Bethea. What shift did he work? Do you recall?</p> <p>2 A He -- he normally arrived after 9 o'clock,</p> <p>3 sometimes later, quite later. Ten. Nine, ten.</p> <p>4 Nothing -- nothing really, really early. He had</p> <p>5 breakfast nine, 9:30, or even later. He was not a --</p> <p>6 if I can expound, Mr. Bethea was also a manager of the</p> <p>7 software entitlement group, that first group that --</p> <p>8 we had the SCET, and then there was another group,</p> <p>9 SW -- the other -- the front-end agents. He was also</p> <p>10 the manager of that group.</p> <p>11 So he was managing our group and that</p> <p>12 front-end group, but we were -- to be honest, we were</p> <p>13 seasoned vets. We were -- we really didn't need a</p> <p>14 baby-sitter, so he would monitor the other group more.</p> <p>15 He actually sat at that area versus our area, and we</p> <p>16 was on the other side. He was in one building. We</p> <p>17 was in the other building.</p> <p>18 Q Oh, you were not even in the same building?</p> <p>19 A No, sir.</p> <p>20 (Thereupon, marked for identification,</p> <p>21 Defendant's Exhibit D7.)</p> <p>22 BY MR. RAY:</p> <p>23 Q Let me hand you what's been marked as</p> <p>24 Exhibit 7, and this is an e-mail that appears from</p> <p>25 your IBM account --</p>	<p>1 A Right.</p> <p>2 Q -- personal e-mail?</p> <p>3 A Yes.</p> <p>4 Q And were you actually looking at the</p> <p>5 Internet to get the Web site?</p> <p>6 A Yes. That's a -- a Web site -- my daughter</p> <p>7 is a -- swims competitively, and that specific store</p> <p>8 is about two, three miles from me, and they make</p> <p>9 custom bathing suits.</p> <p>10 Q Do you know if that was -- do you know if</p> <p>11 the timing on checking that Web site and sending that</p> <p>12 e-mail that is Exhibit 7 was before the training</p> <p>13 started, or --</p> <p>14 A Right. It -- it was before my shift</p> <p>15 started. I know I was in early. I'm thinking that I</p> <p>16 was in a training class at that time. I'm trying to</p> <p>17 remember the -- actually if we were in training or 7A</p> <p>18 -- 7:19 a.m., that's really early for me. I just</p> <p>19 don't know why I was in that early. Most likely I'm</p> <p>20 thinking that I was in the training class that week or</p> <p>21 I was just in there early.</p> <p>22 (Thereupon, marked for identification,</p> <p>23 Defendant's Exhibit D8.)</p> <p>24 BY MR. RAY:</p> <p>25 Q I'm going to hand you what's been marked as</p>

HUNDT REPORTING

214-220-1122

Witness: Charles Seward

33 (Pages 126 to 129)

Page 126

1 Exhibit 8 and ask you to take a look at this exhibit.
 2 It's dated August 21, 2007. At that time were you on
 3 your ten-to-seven shift?
 4 A Yes.
 5 Q And this is an e-mail actually, 5:57 p.m.,
 6 to an R-J-L-E-O-P --
 7 A Yes.
 8 Q -- at Verizon dot-net. Who is that?
 9 A One of my classmates. I was going to --
 10 this is a e-mail out to my high school reunion.
 11 Q Do you know if you were on break when you
 12 sent this e-mail?
 13 A I don't think so. I think I was waiting on
 14 a call.
 15 Q I hand you what's been marked as Exhibit 9.
 16 Oh.
 17 (Thereupon, marked for identification,
 18 Defendant's Exhibit D9.)
 19 BY MR. RAY:
 20 Q This e-mail that is Exhibit 9 is dated
 21 October 15, 2007, and it appears to be from your IBM
 22 e-mail to your personal e-mail; is that correct?
 23 A Yes. I'm trying to think of what that
 24 e-mail is for. It's a guide for something.
 25 Q Yes. It appears to be a Web site address.

Page 127

1 Is that correct?
 2 A I'm not sure if it's the -- I'm not sure
 3 what that guide is for.
 4 Q At this time you were -- as of October 15,
 5 2007, you were on the ten-to-seven shift; correct?
 6 A Correct.
 7 Q This e-mail is dated 9:58 a.m.
 8 A Correct.
 9 Q Now, I do not know, and I'll represent, I
 10 don't know if in printing these e-mails, it may have
 11 shifted the time because we're central time, so I'm
 12 not -- I don't know if this was 9:58 a.m. central or
 13 9:58 a.m. eastern. Do you happen to recall whether
 14 this was done preshift or during your shift?
 15 A No, sir. I'm just trying to remember what
 16 that guide is for. I know it's something, but --
 17 maybe it's -- I'll try to speak up. Maybe it's a -- I
 18 know it's -- I'm trying to remember. I'm pretty good
 19 at this. Guide? Oh, this might be the call center --
 20 no, it can't be the call center guide. I'm not sure
 21 what it is.
 22 Q Let me ask a general question about these
 23 e-mails and checking the Internet. You talked earlier
 24 about how you were told not to log in -- let's just
 25 talk about Mr. Bethea. How Mr. Bethea told you not to

Page 128

1 log in until a minute or two or right at your start
 2 time; correct?
 3 A Yes, sir.
 4 Q You yourself had this 15-minute rule of
 5 thumb where you would start logging into your tools
 6 approximately 15 minutes before your start time?
 7 A Correct.
 8 Q If your tools were logged up within seven
 9 to eight minutes, so you'd still had seven or eight
 10 minutes until your start time, and Mr. Bethea had
 11 asked you not to log into the phone, the Avaya, until
 12 your start time --
 13 A That's correct.
 14 Q -- what were you doing in between this
 15 seven -- for this seven or eight minutes? Because you
 16 could not take calls, obviously.
 17 A No. No. I -- basically, I could be just
 18 looking at my e-mails. To be honest, sometime --
 19 especially when I was with Teach, not the waning
 20 months, but prior to that, when I used to have -- I
 21 used to have really early hours. I used to do some of
 22 my admin work. Besides bringing up my system, if I
 23 had some admin work sitting out there, I probably did
 24 some of that also, but that's about it that I can see.
 25 Q What period of time were you on this early

Page 129

1 shift where you would do that?
 2 A Oh, gosh, we're talking about 2004 through
 3 2006, I would say -- I'm only ballpark. Only
 4 ballpark.
 5 Q And was that when you were under
 6 Mr. Bethea?
 7 A Yes, sir.
 8 Q Did Mr. Bethea know that you were doing
 9 admin work -- well, let me -- let me clarify. Were
 10 you doing admin work before your scheduled start time?
 11 A I would say, because the work got done --
 12 it was to our benefit to have it done, you know, so,
 13 you know -- basically, if I can expound, we had a -- a
 14 scheduled admin time during the day. Now, I might
 15 have X amount of work in that admin time, but if I
 16 could do some of it before my -- in the morning, it
 17 would help me later, so I would do both.
 18 Q Well -- and let me just ask the question
 19 again to make sure I understand.
 20 A Yes.
 21 Q Was there time when you were under
 22 Mr. Bethea where you would do admin work before your
 23 scheduled shift?
 24 A Sure. Yes, sir.
 25 Q And did you record that time in totals?